

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-HTF/1143

- Applicant** : Barley Greening Solutions Limited represented by Goldrich Planners & Surveyors Limited
- Site** : Lot 335 S.B in D.D. 128 and Adjoining Government Land (GL), Yuen Long, New Territories
- Site Area** : About 379m² (including GL of about 199m² or 52.5%)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Ha Tsuen Fringe Outline Zoning Plan (OZP) No. S/YL-HTF/12
- Zonings** : (i) "Agriculture" ("AGR") (about 97.4%)
(ii) Area shown as 'Road' (about 2.6%)
- Application** : Proposed Temporary Shop and Services (Plant Showroom) and Plant Nursery with Ancillary Facilities for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission for proposed temporary shop and services (plant showroom) and plant nursery with ancillary facilities for a period of three years at the application site (the Site) (**Plan A-1**). The Site falls within an area largely zoned "AGR" with a very minor portion within an area shown as 'Road'¹ on the OZP (**Plan A-1**). According to the covering Notes of the OZP, while plant nursery is a use always permitted within the OZP, the proposed temporary shop and services (plant showroom) use not exceeding a period of three years requires planning permission from the Town Planning Board (the Board). The Site is currently formed and occupied by temporary structures which are partly vacant and partly used for storage without valid planning permission (**Plans A-4a and A-4b**).
- 1.2 The Site is accessible from Deep Bay Road (**Plans A-2 and A-3**). As shown on the proposed layout plan at **Drawing A-1**, six structures with a total gross floor area of about 244m² and building height of 2.6-7m (1-2 storeys) for

¹ Regarded as minor boundary adjustment allowed under the covering Notes of the OZP.

greenhouse (plant showroom and nursery), agricultural storeroom, rain shelter, pantry and toilet uses are proposed. There will be one light goods vehicle parking space. The operation hours will be from 10:00 a.m. to 6:00 p.m. daily including Sundays and public holidays. Proposed layout plan, vehicular access plan, drainage proposal and tree preservation and landscape proposal are at **Drawings A-1 to A-4** respectively.

1.3 In support of the application, the applicant submitted the following documents:

- (a) Application Form with attachments received on **(Appendix I)**
25.10.2022
- (b) Supplementary Information (SI) received on **(Appendix Ia)**
28.10.2022
- (c) Further Information (FI) received on 6.12.2022* **(Appendix Ib)**
- (d) FI received on 13.2.2023^ **(Appendix Ic)**
- (e) FI received on 20.3.2023^ **(Appendix Id)**

**not exempted from publication and recounting requirements*

^ exempted from publication and recounting requirements

1.4 On 3.2.2023, the Rural and New Town Planning Committee (the Committee) of the Board agreed to defer a decision on the application as requested by the applicant for two months.

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the application form at **Appendix I**. They can be summarised as follows:

- (a) No adverse landscape, drainage and traffic impacts are anticipated.
- (b) The proposed use could provide job opportunities and promote agricultural use in the “AGR” zone.

3. Compliance with the “Owner’s Consent/Notification” Requirements

The applicant is not the “current land owner” but has complied with the requirements as set out in the Town Planning Board Guidelines on Satisfying the “Owner’s Consent/Notification” Requirements under Sections 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31A) by posting site notice and sending registered post to the Ha Tsuen Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection. The “Owner’s Consent/Notification” Requirements under TPB PG-No. 31A are not applicable to the GL portion.

4. Background

The Site is currently not subject to planning enforcement action.

5. Previous Application

There is no previous application at the Site.

6. Similar Application

There is no similar application within the same “AGR” zone on the OZP.

7. The Site and Its Surrounding Areas (Plans A-1 to A-4b)

7.1 The Site is:

- (a) formed and occupied by temporary structures which are partly vacant and partly used for storage without valid planning permission; and
- (b) accessible from Deep Bay Road.

7.2 The surrounding areas have the following characteristics. Some of the uses are suspected unauthorized developments subject to planning enforcement action:

- (a) to the east are a workshop, vacant land and a permitted burial ground mainly within the adjacent “Green Belt” zone;
- (b) to the south are cultivated agricultural land, grassland and an area used for storage;
- (c) to the southwest are a residential dwelling and vacant/unused land; and
- (d) to the north across Deep Bay Road are open storage yards, residential dwellings and vacant/unused land.

8. Planning Intention

The planning intention of the “AGR” zone is to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes.

9. Comments from Relevant Government Departments

9.1 Apart from the government departments as set out in paragraph 9.2 below, other

departments consulted have no objection to or no adverse comment on the application. Their general comments on the application and advisory comments are provided in **Appendices II and III** respectively.

- 9.2 The following government departments do not support/have adverse comments on the application:

Agriculture

- 9.2.1 Comments of the Director of Agriculture, Fisheries and Conservation (DAFC):

The Site falls mainly within the “AGR” zone and is occupied by temporary structures. Agricultural infrastructures such as road access and water source are available in the vicinity of the Site, which can be used for agricultural activities such as open-field cultivation, greenhouses, plant nurseries, etc. As the Site possesses potential for agricultural rehabilitation, the non-agricultural development at the Site is not supported from agricultural perspective.

Land Administration

- 9.2.2 Comments of the District Lands Officer/Yuen Long, Lands Department (DLO/YL, LandsD):

- (a) the Site comprises Old Schedule Agricultural Lots held under the Block Government Lease which contains the restriction that no structures are allowed to be erected without the prior approval of the Government, and GL;
- (b) he has reservation on the application since there are unauthorized building works and/or uses on the private lot which are already subject to lease enforcement actions according to case priority. The lot owner(s) should rectify/regularise the lease breaches as demanded by LandsD;
- (c) no permission is given for occupation of GL (about 199m² subject to verification) included in the Site. Any occupation of GL without Government’s prior approval is not allowed; and
- (d) his advisory comments are at **Appendix III**.

10. Public Comment Received During the Statutory Publication Periods

On 1.11.2022 and 9.12.2022, the application and FI were published for public inspection. During the statutory public inspection periods, one public comment from an individual was received (**Appendix IV**) objecting to the application on the grounds of adverse environmental and fire safety impacts arising from the proposed commercial use.

11. Planning Considerations and Assessments

- 11.1 The application is for proposed temporary shop and services (plant showroom) and plant nursery with ancillary facilities for a period of three years at the Site which is zoned “AGR” on the OZP. Although the proposed use is not in line with the planning intention of the “AGR” zone and DAFC does not support the application from the agricultural perspective mainly on consideration that the Site possesses potential for agricultural rehabilitation and agricultural infrastructures such as road access and water source are available in the area, approval of the application on a temporary basis for a period of three years would not frustrate the long-term planning intention of the “AGR” zone.
- 11.2 The Site is situated in an area of rural landscape character predominated by temporary structures, graveyards and grassland/woodland. The proposed plant showroom and plant nursery which is small in scale is not entirely incompatible with the surrounding areas.
- 11.3 Relevant government departments, including the Commissioner for Transport, Director of Environmental Protection, Chief Engineer/Mainland North of Drainage Services Department, Director of Fire Services and Chief Town Planner/Urban Design and Landscape of Planning Department have no objection to or no adverse comment on the application. The proposed use will unlikely create adverse traffic, environmental, drainage, fire safety and landscape impacts on the surrounding areas. To address the technical requirements of concerned government departments, appropriate approval conditions are recommended in paragraph 12.2 below. With regards to DLO/YL, LandsD’s comments on unauthorized building works and/or uses on the private lot within the Site, the applicant/lot owner(s) will be advised to remedy the lease breaches or to regularise any irregularities with LandsD.
- 11.4 There is one public comment received during the statutory publication periods objecting to the application mainly on the grounds summarised in paragraph 10. The planning considerations and assessments in paragraphs 11.1 to 11.3 above are relevant.

12. Planning Department’s Views

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the public comment mentioned in paragraph 10 above, the Planning Department considers that the proposed temporary shop and services (plant showroom) and plant nursery with ancillary facilities could be tolerated for a period of three years.
- 12.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid on a temporary basis for a period of three years until 31.3.2026. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval conditions

- (a) no medium or heavy goods vehicles exceeding 5.5 tonnes, as defined under the Road Traffic Ordinance, is allowed to enter/exit or to be parked/stored on the Site at any time during the planning approval period;
- (b) the submission of a revised drainage proposal within **6 months** from the date of the planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by **30.9.2023**;
- (c) in relation to (b) above, the implementation of the drainage proposal within **9 months** from the date of the planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by **31.12.2023**;
- (d) in relation to (c) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (e) the submission of a fire service installations proposal within **6 months** from the date of the planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by **30.9.2023**;
- (f) in relation to (e) above, the implementation of the fire service installations proposal within **9 months** from the date of the planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by **31.12.2023**;
- (g) if any of the above planning condition (a) or (d) is not complied with during the planning approval period, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice;
- (h) if any of the above planning condition (b), (c), (e) or (f) is not complied with by the specified date, the approval hereby given shall cease to have effect and shall on the same date be revoked without further notice; and
- (i) upon expiry of the planning permission, the reinstatement of the Site to an amenity area to the satisfaction of the Director of Planning or of the Town Planning Board.

Advisory clauses

The recommended advisory clauses are attached at **Appendix III**.

- 12.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Members' reference:

the proposed use is not in line with the planning intention of the “AGR” zone, which is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. No strong planning justification has been given in the submission for a departure from the planning intention, even on a temporary basis.

13. Decision Sought

- 13.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 13.2 Should the Committee decide to approve the application, Members are invited to consider the approval condition(s) and advisory clause(s), if any, to be attached to the permission, and the period of which the permission should be valid on a temporary basis.
- 13.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.

14. Attachments

Appendix I	Application Form with Attachments received on 25.10.2022
Appendix Ia	SI received on 28.10.2022
Appendix Ib	FI received on 6.12.2022
Appendix Ic	FI received on 13.2.2023
Appendix Id	FI received on 20.3.2023
Appendix II	Government Departments' General Comments
Appendix III	Recommended Advisory Clauses
Appendix IV	Public Comment
Drawing A-1	Proposed Layout Plan
Drawing A-2	Vehicular Access Plan
Drawing A-3	Drainage Proposal
Drawing A-4	Tree Preservation and Landscape Proposal
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a and A-4b	Site Photos

**PLANNING DEPARTMENT
MARCH 2023**